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10/760,035

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Joseph J. Kubler

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EXAMINER

ROBERTS, BRIAN S

ART UNIT

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2619

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

7/11

<b>Office Action Summary</b>	<b>Application No.</b> 10/760,035	<b>Applicant(s)</b> KUBLER ET AL.	
	<b>Examiner</b> Brian Roberts	<b>Art Unit</b> 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-38 and 54-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-38 and 54-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

- Claims 22-38 and 54-59 remain pending.

### ***Election/Restrictions***

Applicant's election of claims 22-38 and 54-59 in the reply filed on 12/17/2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Objections***

Claim 23 is objected to because of the following informalities:

- Claim 23 line 2 "network uses" should read --network communicates using--
- Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 24, 33, and 59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In reference to claim 24, 33, 59

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The phrase "wherein the Internet Protocol is the transmission control/Internet protocol protocol" renders the claim indefinite. Internet protocol cannot consist of transmission control/Internet protocol because TCP is a different protocol than IP protocol.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 22, 26-30, 36-38, 54 and 56-57 are rejected under 35 U.S.C. 102(e) as being anticipated by Heidari. (US 5550893)

- In reference to claim 22

In Figure 1, Heidari teaches a mobile telephone that includes:

- a microphone (12) for transducing sound into a first analog voice stream
- at least one converter (70,42) for converting the first analog voice stream to produce digital voice packets
- a transmitter (48) for transmitting via a wireless packet network (20) the digital voice packets from the at least one converter (70,42)

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- a receiver (50) for receiving digital voice packets from the wireless packet network (20)
- the at least one converter (72,68) for converting received digital voice packets to a second analog voice stream
- a transducer (14) for transducing the second analog voice stream into sound.

- In reference to claim 26, 56

In Figure 1, Heidari further teaches the wireless packet network communicates using a frequency hopping spread spectrum technique. (column 3 lines 40-45)

- In reference to claim 27, 57

In Figure 1, Heidari further teaches wherein the wireless packet network communicates using a direct sequence spread spectrum technique. (column 3 lines 40-45)

- In reference to claim 28

In Figure 1, Heidari further teaches the converter includes an analog to digital converter (70) for converting the first analog voice stream to digital voice data and a packetizer (42) for assembling the digital voice data to produce digital voice packets.

- In reference to claim 29

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In Figure 1, Heidari further teaches the converter includes a depacketizer (44) for extracting digital voice data from received digital voice packets; and a digital to analog converter (72) for converting the extracted digital voice data to produce the second analog voice stream.

- In reference to claim 30

In Figure 1, Heidari teaches a circuit for supporting voice communication via a wireless packet network that includes:

- at least one converter (70,42) for converting a first analog voice stream to produce digital voice packets
- a transmitter (48) for transmitting via the wireless packet network the digital voice packets from the at least one converter (70,42)
- a receiver (50) for receiving digital voice packets from the wireless packet network
- the at least one converter (44,72) for converting received digital voice packets to a second analog voice stream.

- In reference to claim 36

In Figure 1, Heidari further teaches a transducer (14) for converting the second analog voice stream into sound.

- In reference to claim 37

In Figure 1, Heidari further teaches a keypad (30) for receiving user input.

- In reference to claim 38

In Figure 1, Heidari further teaches a display device (30) to provide visual feedback to a user.

- In reference to claim 54

In Figure 1, Heidari teaches a method of operating a portable terminal device for supporting voice communication via a wireless packet network (20) that includes:

- receiving digital voice packets (50) via the wireless packet network (20)
- converting the received digital voice packets to a first analog voice stream (44, 72)
- transducing the first analog voice stream to produce sound (14)
- converting sound to a second analog voice stream (12)
- converting the second analog voice stream to digital voice packets (70,42)
- sending via the wireless packet network (20) the digital voice packets converted from the second analog voice stream (48).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25, 31, and 55 rejected under 35 U.S.C. 103(a) as being unpatentable over Heidari (US 5550893)

- In reference to claim 25, 31, 55

Heidari teaches a system and method that covers substantially covers all limitations of the parent claim.

Heidari does not explicitly teach the wireless packet network communicates at a frequency of approximately 2.4 gigahertz.

Official Notice is taken that it is within the purview of one of ordinary skill in the art for a wireless packet network communicate at a frequency of approximately 2.4 gigahertz.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the system and method of Heidari to include the wireless packet network communicates at a frequency of approximately 2.4 gigahertz in order to conform to governmental regulations and industry standards and avoid interference with other communication equipment operating on different frequencies.

Claims 23-24, 32-33, and 58-59 rejected under 35 U.S.C. 103(a) as being unpatentable over Heidari (US 5550893), as applied to the parent claim, in view of Penners et al. (US 5793762)

- In reference to claim 23-24, 32-33, 58-59



Heidari teaches a system and method that covers substantially covers all limitations of the parent claim.

Heidari does not explicitly teach the wireless packet network uses an Internet protocol (IP).

In Figure 1, Penners et al. teaches a wireless packet network that utilizes an Internet protocol.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the system and method of Heidari to include the wireless packet network utilizing Internet protocol as taught by Penners et al. because it allows the mobile telephone to receive voice services and Internet data via the Internet Packet data network.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are:

- Nonami (US 5251232) teaches a radio communication apparatus.
- Yatim et al. (US 5384807) teaches an ADPCM transcoder with integral tone generation and method.
- Obayashi et al. (US 5404579) teaches a dual mode mobile radio communication apparatus with function for transmitting remote control data.
- Kobayashi (US 5428664) teaches a dual mode portable telephone.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Roberts whose telephone number is (571) 272-3095. The examiner can normally be reached on M-F 10:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BSR  
01/11/2008

  
WING CHAN  
SUPERVISORY PATENT EXAMINER